




U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration

Memorandum

Subject: **ACTION:** ASPEN Modifications for
Implementation of the U.S.-Mexico Cross-Border
Demonstration Program

From: 
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Associate Administrator for Enforcement
and Program Delivery

To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Field Administrators/Service Center Directors
Division Administrators/State Director
National Enforcement Team
National Training Center

Date: SEP 7 2007

Reply to
Attn.of: MC-ESB

PURPOSE

This memorandum provides guidance to the Federal Motor Carrier Safety Administration (FMCSA) and State enforcement personnel regarding the modifications in the ASPEN inspection software to implement the U.S. -Mexico Cross-Border Demonstration Program. Additionally, this guidance provides instructions for manual entries to be made in ASPEN by the inspector during inspections until the ASPEN inspection software modifications are released¹.

APPLICABILITY

These modifications will be applicable to all inspections performed on Mexico-domiciled motor carriers granted provisional operating authority for transportation beyond the United States municipalities and commercial zones on the United States-Mexico border².

BACKGROUND

Each Mexico-domiciled long-haul motor carrier must successfully complete a Pre-Authorization Safety Audit (PASA) to be issued provisional operating authority. During the PASA, the motor carrier is informed that all its vehicles operated in the United States must meet Federal Motor

¹ The next release of the ASPEN inspection software is scheduled for September 14, 2007.

² These motor carriers are commonly known as "long-haul" carriers, and are required to display the suffix "X" at the end of their US DOT number.

Vehicle Safety Standards (FMVSS), and display a current Commercial Vehicle Safety Alliance (CVSA) Inspection decal. The provisional operating authority document issued to a Mexico-domiciled motor carrier prohibits point-to-point (cabotage) transportation in the United States under 49 CFR 365.501(b)³.

Federal and State enforcement personnel were issued guidance in a policy memorandum on the inspection and enforcement procedures when inspecting every commercial motor vehicle (CMV) operated by a Mexico-domiciled long-haul motor carriers issued provisional operating authority under the cross-border demonstration program⁴.

In 2006, the ASPEN inspection software was modified to perform an electronic validation of the values in the 17 character Vehicle Identification Number (VIN). This validation compares the VIN values to the FMVSS criteria including year and country of manufacture. A warning is displayed if the vehicle appears not to be in compliance with the FMVSS. Guidance is provided below for those vehicle inspections where the vehicle does not meet the FMVSS.

Additional modifications to the ASPEN inspection software were required as a result of the Cross-Border Demonstration program and are outlined in the attachment to this memorandum.

POLICY

For vehicle inspections where a warning indicates the vehicle is not in compliance with the FMVSS, send a scanned copy of the inspection report via email to Carla Vagnini at the North American Borders Division (Carla.vagnini@dot.gov) with a note indicating the FMVSS issue. Further enforcement action will be determined as appropriate.

Federal and State enforcement personnel using the ASPEN inspection software shall follow the guidance provided in the enforcement policy memorandum titled: "Requirements for Inspection of Mexico-domiciled Carriers Operating under the Cross-Border Demonstration Program". Additionally, the inspector will be required to:

- Ensure the VIN is entered in ASPEN for each CMV inspected.
- Record the current CVSA inspection decal number in the **Special Study Field #3** (if applicable). To access Special Study Field #3, select the Finish Tab in the ASPEN software. Click on the Special Study Fields button and Special Study Fields pop-up window will appear. Type the CVSA decal number in Special Study #3.

When a violation of failing to display a current CVSA decal is discovered;

The inspector will cite section 390.3(e)(1) – Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399/Failing to display a current CVSA decal, as required by section 385.103(c).

Until this violation is programmed in ASPEN, the inspector will be required to cite section 385.103(c), and **manually amend** the violation description as follows:

³ Cabotage is the point-to-point transportation of domestic cargo (passengers and freight) within the United States.

⁴ On July 12, 2007 the Acting Associate Administrator for Enforcement and Program Delivery issued an enforcement policy memorandum titled, "Requirements for Inspection of Mexico-domiciled Carriers Operating under the Cross-Border Demonstration Project".

- Select the base violation 385.103(c);
- Amend the violation description to read as: “Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399 as required by section 390.3(e)(1)/Failing to display a current CVSA decal”; and
- Activate the Out of Service (OOS) designation.

When cabotage activities are discovered;

The inspector will cite section 392.9a(a)(2) – Operating beyond the scope of its operating authority. Until this violation is programmed in ASPEN, the inspector will be required to **manually amend** the violation description as follows:

- Select the base violation of section 392.9a(a)(2);
- Amend the violation description to read as: “Operating beyond the scope of Operating Authority Granted - Providing prohibited point-to-point transportation services (Cabotage)”; and,
- Activate the OOS designation

IMPLEMENTATION DATE

This memorandum is effective immediately.

If you have any questions or need additional information, please contact the North American Borders Division at (202) 366-0318.

Attachment

ATTACHMENT

Modifications made to the ASPEN inspection software are outlined below:

- For Mexico-domiciled carriers, the title of the current Bodily Injury-Property Damage “BIPD” Insurance Verification Check pop-up box will be changed to reflect “Compliance Verification Checks”. The inspector should check the box for “This trip is beyond the Commercial Zone” (if applicable).
- For Mexico-domiciled carriers, the title of the current “BIPD Insurance For This Motor Carrier Must Be Verified” pop-up box will be changed to reflect “Compliance Verification Checks For This Motor Carrier Must Be Verified”.
- A notification to the inspector of “required inspection data fields” when an inspection is performed on a Mexico “long-haul” motor carrier, driver and vehicle.
- A warning: “Full Vehicle Identification Number for ALL CMV units inspected” must be entered.
- A warning: “A Valid CVSA Inspection Decal is required for ALL CMV units inspected”.
- The Help file and hints were added to the ASPEN roadside inspection software to reflect the changes to the system.
- The following OOS violations will be added to the ASPEN roadside inspection software:
 - Section 390.3(e)(1) – Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399/Failing to display a current CVSA decal, as required by section 385.103(c).
 - Section 392.9a(a)(2) – Operating beyond the scope of Operating Authority Granted - Providing prohibited point-to-point transportation services (Cabotage).